

Executive Summary – Enforcement Matter – Case No. 49772
Sung Hee Kang dba Times Market No. 11
RN102463569
Docket No. 2014-1814-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Times Market No. 11, 4702 Kostoryz Road, Corpus Christi, Nueces County

Type of Operation:

Convenience store with out-of-service underground storage tanks ("USTs")

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 8, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$12,214

Amount Deferred for Expedited Settlement: \$2,442

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$287

Total Due to General Revenue: \$9,485

Payment Plan: 35 payments of \$271 each

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 49772
Sung Hee Kang dba Times Market No. 11
RN102463569
Docket No. 2014-1814-PST-E

Investigation Information

Complaint Date(s): September 22, 2014

Complaint Information: Alleged that the Facility's underground storage tank(s) ("USTs") were leaking.

Date(s) of Investigation: September 22, 2014 through September 30, 2014

Date(s) of NOE(s): November 21, 2014

Violation Information

1. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years [30 TEX. ADMIN. CODE §§ 334.49(c)(4)(C) and 334.54(c)(1) and TEX. WATER CODE § 26.3475(d)].
2. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly [30 TEX. ADMIN. CODE §§ 334.49(c)(2)(C) and 334.54(c)(1) and TEX. WATER CODE § 26.3475(d)].
3. Failed to demonstrate acceptable financial assurance for taking corrective action for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].
4. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE §§ 334.50(b)(1)(A) and 334.54(c)(2) and TEX. WATER CODE § 26.3475(c)(1)].
5. Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current operational status of the USTs [30 TEX. ADMIN. CODE §§ 334.7(d)(3) and 334.54(e)(2)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will also require the Respondent to:

- a. Within 30 days:
 - i. Begin conducting bimonthly inspections of the cathodic protection system and conduct the required triennial testing of the cathodic protection system for operability and adequacy of protection;

Executive Summary – Enforcement Matter – Case No. 49772
Sung Hee Kang dba Times Market No. 11
RN102463569
Docket No. 2014-1814-PST-E

- ii. Demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs; and
 - iii. Implement a release detection method for all USTs at the Facility, to include but not limited to monitoring for releases monthly (not to exceed 35 days between each monitoring).
 - iv. In lieu of a.i through a.iii, temporarily or permanently remove from service all USTs at the Facility.
 - v. Submit an amended UST registration to reflect the current operational status of the USTs.
- b. Within 45 days, submit written certification demonstrating compliance with a.i through a.iii and a.v, or a.iv and a.v.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Thomas Greimel, Enforcement Division,
Enforcement Team 7, MC 128, (512) 239-5690; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Sung Hee Kang, Owner, Times Market No. 11, 4702 Kostoryz Road,
Corpus Christi, Texas 78415
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	25-Nov-2014	Screening	25-Nov-2014	EPA Due	
	PCW	5-Dec-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	Sung Hee Kang dba Times Market No. 11
Reg. Ent. Ref. No.	RN102463569
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	49772	No. of Violations	4
Docket No.	2014-1814-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Thomas Greimel
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,250
---	-------------------	-----------------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	-10.0%	Reduction	Subtotals 2, 3, & 7	-\$1,125
---------------------------	---------------	------------------	--------------------------------	-----------------

Notes: Reduction due to high performer classification.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
--------------------	-----------	-------------	--------------------	-------------------	------------

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
--	-------------------	------------

Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
-------------------------	-------------	---------------------	-------------------	------------

Total EB Amounts: \$2,138
Estimated Cost of Compliance: \$3,520
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,125
-----------------------------	-----------------------	-----------------

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage.

20.6%	Adjustment	\$2,089
--------------	-------------------	----------------

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 1 and 2.

Final Penalty Amount	\$12,214
-----------------------------	-----------------

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty	\$12,214
-------------------------------	-----------------

DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

20.0%	Reduction	Adjustment	-\$2,442
--------------	------------------	-------------------	-----------------

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY

\$9,772

Screening Date 25-Nov-2014

Docket No. 2014-1814-PST-E

PCW

Respondent Sung Hee Kang dba Times Market No. 11

Policy Revision 4 (April 2014)

Case ID No. 49772

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102463569

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

Reduction due to high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 25-Nov-2014

Docket No. 2014-1814-PST-E

PCW

Respondent Sung Hee Kang dba Times Market No. 11

Policy Revision 4 (April 2014)

Case ID No. 49772

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102463569

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 334.49(c)(2)(C), 334.49(c)(4)(C), and 334.54(c)(1) and Tex. Water Code § 26.3475(d)

Violation Description

Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Also, failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health and environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

64 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semi-annual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the September 22, 2014 investigation date to the November 25, 2014 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$703

Violation Final Penalty Total \$4,071

This violation Final Assessed Penalty (adjusted for limits) \$4,071

Economic Benefit Worksheet

Respondent: Sung Hee Kang dba Times Market No. 11
 Case ID No. 49772
 Reg. Ent. Reference No. RN102463569
 Media: Petroleum Storage Tank
 Violation No. 1

Percent Interest: 5.0
 Years of Depreciation: 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
 Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	22-Jul-2014	22-Sep-2014	1.09	\$5	\$100	\$105
Other (as needed)	\$500	22-Sep-2011	22-Sep-2014	3.92	\$98	\$500	\$598

Notes for AVOIDED costs

Avoided cost for conducting bimonthly inspections and completing the triennial test. Dates required are 60 days before the investigation date and three years before the investigation date, respectively. Final Date is the investigation date.

Approx. Cost of Compliance

\$600

TOTAL

\$703

Screening Date	25-Nov-2014	Docket No.	2014-1814-PST-E
Respondent	Sung Hee Kang dba Times Market No. 11	PCW	
Case ID No.	49772	<small>Policy Revision 4 (April 2014)</small>	
Reg. Ent. Reference No.	RN102463569	<small>PCW Revision March 26, 2014</small>	
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Thomas Greimel		
Violation Number	2		
Rule Cite(s)	30 Tex. Admin. Code § 37.815(a) and (b)		
Violation Description	Failed to demonstrate acceptable financial assurance for taking corrective action for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum underground storage tanks ("USTs").		
		Base Penalty	\$25,000

>> Environmental, Property and Human Health Matrix				
	Release	Harm		
	Major	Moderate	Minor	
Actual				Percent 0.0%
Potential				
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
		x		
				Percent 5.0%
Matrix Notes	100% of the rule requirement was not met.			
		Adjustment	\$23,750	
		\$1,250		

Violation Events		
Number of Violation Events	2	Number of violation days
	64	
mark only one with an x <div style="border: 1px solid black; padding: 5px; display: inline-block;"> Daily Weekly Monthly Quarterly Annually Single event </div>	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> Daily Weekly Monthly Quarterly Annually Single event </div>	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> Daily Weekly Monthly Quarterly Annually Single event </div>
		x
Two single events are recommended (one per UST).		
Violation Base Penalty		\$2,500

Good Faith Efforts to Comply		0.0%	Reduction	\$0
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
Extraordinary				
Ordinary				
N/A	x	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal		\$2,500		

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	\$1,386	Violation Final Penalty Total	\$2,714
This violation Final Assessed Penalty (adjusted for limits)		\$2,714	

Economic Benefit Worksheet

Respondent: Sung Hee Kang dba Times Market No. 11
 Case ID No. 49772
 Reg. Ent. Reference No. RN102463569
 Media: Petroleum Storage Tank
 Violation No. 2

Percent Interest: 5.0
 Years of Depreciation: 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
 Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]	\$1,320	22-Sep-2013	22-Sep-2014	1.00	\$66	\$1,320	\$1,386
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to provide financial assurance for two USTs (\$660 per tank). Date Required is one year prior to the investigation date. Final Date is the investigation date.

Approx. Cost of Compliance

\$1,320

TOTAL

\$1,386

Screening Date 25-Nov-2014 Respondent Sung Hee Kang dba Times Market No. 11 Case ID No. 49772 Reg. Ent. Reference No. RN102463569 Media [Statute] Petroleum Storage Tank Enf. Coordinator Thomas Greimel	Docket No. 2014-1814-PST-E PCW	Policy Revision 4 (April 2014) PCW Revision March 26, 2014
Violation Number 3 Rule Cite(s) 30 Tex. Admin. Code §§ 334.50(b)(1)(A) and 334.54(c)(2) and Tex. Water Code § 26.3475(c)(1)		
Violation Description Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).		
Base Penalty		\$25,000

>> Environmental, Property and Human Health Matrix

	Harm						
	Major	Moderate	Minor				
Release							
Actual							
Potential	x						
			Percent	15.0%			

>> Programmatic Matrix

	Falsification						
	Major	Moderate	Minor				
Falsification							
Major							
Moderate							
Minor							
			Percent	0.0%			

Matrix Notes
Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events	1	64	Number of violation days
----------------------------	---	----	--------------------------

mark only one
with an x

Daily	
Weekly	
Monthly	
Quarterly	x
Semiannual	
Annual	
Single event	

Violation Base Penalty

\$3,750

One quarterly event is recommended from the September 22, 2014 investigation date to the November 25, 2014 screening date.

Good Faith Efforts to Comply	0.0%	
-------------------------------------	------	--

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary			
N/A	x	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		

Violation Subtotal

\$3,750

Economic Benefit (EB) for this violation	Statutory Limit Test
---	-----------------------------

Estimated EB Amount	\$45		Violation Final Penalty Total	\$4,071
This violation Final Assessed Penalty (adjusted for limits)			\$4,071	

Economic Benefit Worksheet

Respondent Sung Hee Kang dba Times Market No. 11
 Case ID No. 49772
 Reg. Ent. Reference No. RN102463569
 Media Petroleum Storage Tank
 Violation No. 3

Percent Interest 5.0
 Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
 Item Description No. columns or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0		\$0
Record Keeping System				0.00	\$0		\$0
Training/Sampling				0.00	\$0		\$0
Remediation/Disposal				0.00	\$0		\$0
Permit Costs				0.00	\$0		\$0
Other (as needed)	\$1,500	22-Sep-2014	30-Apr-2015	0.60	\$45		\$45

Notes for DELAYED costs

Estimated cost to provide release detection for the USTs. Date Required is the date of the investigation.
 Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$45

Screening Date	25-Nov-2014	Docket No.	2014-1814-PST-E
Respondent	Sung Hee Kang dba Times Market No. 11	PCW <small>Policy Revision 4 (April 2014) PCW Revision March 26, 2014</small>	
Case ID No.	49772		
Reg. Ent. Reference No.	RN102463569		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Thomas Greimel		
Violation Number	4		
Rule Cite(s)	30 Tex. Admin. Code §§ 334.7(d)(3) and 334.54(e)(2)		
Violation Description	Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current operational status of the USTs.		
		Base Penalty	\$25,000

>> Environmental, Property and Human Health Matrix						
OR		Harm				
	Release	Major	Moderate	Minor		
	Actual					
	Potential				Percent	0.0%

>> Programmatic Matrix						
	Falsification	Major	Moderate	Minor		
		x				
					Percent	5.0%
Matrix Notes	100% of the rule requirement was not met.					
					Adjustment	\$23,750
						\$1,250

Violation Events			
Number of Violation Events	1	64	Number of violation days
<small>mark only one with an x</small>	daily		Violation Base Penalty
	weekly		
	monthly		
	quarterly		
	semi-annual		
	annual		
	single event	x	
One single event is recommended.			Violation Base Penalty
			\$1,250

Good Faith Efforts to Comply		0.0%		Reduction	
		Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer		
Extraordinary					
Ordinary					
N/A	x	(mark with x)			
Notes	The Respondent does not meet the good faith criteria for this violation.				
				Violation Subtotal	\$1,250

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	\$3	Violation Final Penalty Total	\$1,357
		This violation Final Assessed Penalty (adjusted for limits)	\$1,357

Economic Benefit Worksheet

Respondent: Sung Hee Kang dba Times Market No. 11
 Case ID No. 49772
 Reg. Ent. Reference No. RN102463569
 Media: Petroleum Storage Tank
 Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0		\$0
Record Keeping System				0.00	\$0		\$0
Training/Sampling				0.00	\$0		\$0
Remediation/Disposal				0.00	\$0		\$0
Permit Costs				0.00	\$0		\$0
Other (as needed)	\$100	22-Sep-2014	30-Apr-2015	0.60	\$3		\$3

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration. The Date Required is the investigation date. Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$3

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN603489063, RN102463569, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN603489063, Kang, Sung Hee **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN102463569, Times Market No. 11 **Classification:** HIGH **Rating:** 0.00

Complexity Points: 2 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 4702 KOSTORYZ RD CORPUS CHRISTI, TX 78415-1742, NUECES COUNTY

TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 18034

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: December 03, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 03, 2009 to December 03, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Thomas Greimel

Phone: (512) 239-5690

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1 January 21, 2012 (941702)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SUNG HEE KANG DBA TIMES
MARKET NO. 11
RN102463569

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2014-1814-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Sung Hee Kang dba Times Market No. 11 ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a convenience store with out-of-service underground storage tanks ("USTs") at 4702 Kostoryz Road in Corpus Christi, Nueces County, Texas (the "Facility").
2. The Respondent's two USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 26, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twelve Thousand Two Hundred Fourteen Dollars (\$12,214) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid Two Hundred Eighty-Seven Dollars (\$287) of the administrative penalty and Two Thousand Four Hundred Forty-Two Dollars (\$2,442) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the penalty payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Nine Thousand Four Hundred Eighty-Five Dollars (\$9,485) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Seventy-One Dollars (\$271) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE §§ 334.49(c)(4)(C) and 334.54(c)(1) and TEX. WATER CODE

§ 26.3475(d), as documented during an investigation conducted from September 22, 2014 through September 30, 2014.

2. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, in violation of 30 TEX. ADMIN. CODE §§ 334.49(c)(2)(C) and 334.54(c)(1) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted from September 22, 2014 through September 30, 2014.
3. Failed to demonstrate acceptable financial assurance for taking corrective action for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b), as documented during an investigation conducted from September 22, 2014 through September 30, 2014.
4. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE §§ 334.50(b)(1)(A) and 334.54(c)(2) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted from September 22, 2014 through September 30, 2014.
5. Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE §§ 334.7(d)(3) and 334.54(e)(2), as documented during an investigation conducted from September 22, 2014 through September 30, 2014. Specifically, the registration was not updated to reflect the current operational status of the USTs.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Sung Hee Kang dba Times Market No. 11, Docket No. 2014-1814-PST-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Begin conducting bimonthly inspections of the cathodic protection system and conduct the required triennial testing of the cathodic protection system for operability and adequacy of protection, in accordance with 30 TEX. ADMIN. CODE § 334.49;
 - ii. Demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs, in accordance with 30 TEX. ADMIN. CODE § 37.815; and
 - iii. Implement a release detection method for all USTs at the Facility, to include but not limited to monitoring for releases monthly (not to exceed 35 days between each monitoring), in accordance with 30 TEX. ADMIN. CODE § 334.50.
 - iv. In lieu of Ordering Provision Nos. 2.a.i through 2.a.iii, temporarily or permanently remove from service all USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 334.54 or 334.55.
 - v. Submit an amended UST registration to reflect the current operational status of the USTs, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section
Permitting & Registration Support Division, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.iii and 2.a.v, or 2.a.iv and 2.a.v. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the

information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

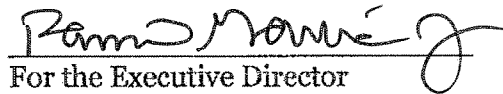
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

6/1/15
Date

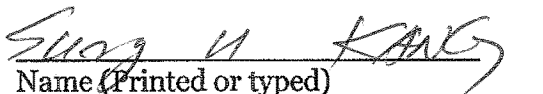
I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
 - Greater scrutiny of any permit applications submitted;
 - Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
 - Increased penalties in any future enforcement actions;
 - Automatic referral to the Attorney General's Office of any future enforcement actions; and
 - TCEQ seeking other relief as authorized by law.
- In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

4/2/2015
Date


Name (Printed or typed)
Authorized Representative of
Sung Hee Kang dba Times Market No. 11


Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.